STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission On Its Own Motion -vs- Commonwealth Edison Company Investigation of Rate Design Pursuant to Section 9-250 of the Public Utilities Act.	: : : : : : : : : :	**Docket No. 08-0532**

REPLY BRIEF ON EXCEPTIONS OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

JOHN C. FEELEY
CARMEN L. FOSCO
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, IL 60601
Phone: (312) 793-2877
Fax: (312) 793-1556
jfeeley@icc.illinois.gov
cfosco@icc.illinois.gov

Counsel for the Staff of the
Illinois Commerce Commission

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Now comes the Staff of the Illinois Commerce Commission ("Staff"), by and through its undersigned attorneys, and pursuant to Section 200.830 of the Commission's Rules of Practice, 83 Ill. Adm. Code Section 200.830, respectfully submits this Reply Brief on Exceptions to the Briefs on Exceptions (“BOEs”) filed by the Commercial Group, and the Illinois Industrial Energy Consumers (“IIEC”) in response to the Proposed Order issued by the Administrative Law Judges (“ALJs”) on February 1, 2010 ("Proposed Order" or “PO”). To the extent that Staff has not addressed an issue in this reply brief on exceptions, Staff accepts or supports the PO and should not be considered to have abandoned or waived any issue. To the extent applicable, Staff relies upon the arguments made in its previously filed initial brief, reply brief and brief on exceptions unless stated otherwise in this brief.

I. INTRODUCTION

While the parties have raised a variety of issues in response to the PO, there are two issues in particular that Staff addresses. The first concerns the unfounded complaints by some parties against the PO's support for the use of coincident peak, rather than the noncoincident peak, to allocate primary lines and substations. The second issue that will be addressed entails the Commercial Group's objections to the adoption of a workshop process.

A. Primary Lines and Substations

The complaints voiced by various parties about the PO's recommendation that primary lines and substations be allocated on the basis of coincident peaks (CP), rather than noncoincident peaks (NCP) are baseless and should be rejected.

Among the parties opposing this decision is the Commercial group which begins its discussion with a quote from the 1992 *NARUC Electric Utility Cost Allocation Manual* which states:

> The load diversity at distribution substations and primary feeders is usually high. For this reason, customer-class peaks are normally used for the allocation of these facilities.

Commercial Group BOE, p. 2. The Commercial Group then seeks to explain the relevance of this quote for cost causation on the ComEd system. According to the Commercial Group, "it is not the system peak that determines the size of distribution substations and primary feeder lines but the amount of load diversity at the distribution level, which diversity is high. Put another way, such facilities must meet the maximum load of customers served by such facilities, whenever that local maximum occurs." The Commercial Group goes on to contend that "because of the diversity of customer class loads on the distribution system, it is unlikely that the local maximum loads will occur at the time of the system coincident peak." Id., pp. 2-3.

There are a number of problems with the Commercial Group's logic. As Staff explained in testimony, Primary lines and substations are not constructed to serve the demands of individual rate classes, but instead are designed to meet the peak demands of customers in multiple classes. Thus, demands for distribution substations and primary lines are more likely to coincide with system peak demands, than with the demands of individual rate classes. Staff Ex. 1.0, p. 35.

The Commercial Group's effort to counter argument by contending "it is unlikely that the local maximum loads will occur at the time of the system coincident peak" is problematic as well. For one, this is unsupported speculation on the Commercial Group's part. In addition, there is no evidence to indicate that demands on substations and primary lines coincide more closely with the demands of any individual rate class. Considering that these facilities are shared by multiple rate classes, it is more likely that their demands more closely parallel the collective demands of these classes, rather than the demands of any individual rate class.

The lighting class illustrates the problems of a NCP allocator for these costs. Lighting demands are highest during off-peak hours and they are low when other classes use more. In other words, lighting customers use less when capacity is tight and more when spare capacity is available. Staff Ex. 1.0, pp. 34-35. This is a clear benefit to the system from a cost standpoint that is not recognized in ComEd's allocation methodology for distribution substations and primary lines. ComEd allocates these costs according to the NCP which uses the peak demand for each class regardless of when it occurs. So the lighting class receives no credit in the ECOSS for its off-peak demands despite the resulting system savings. Id*.*

The issue here is not whether the CP perfectly explains demands for individual primary lines and substations, but whether it explains them better than an NCP allocator. Clearly, as parties have pointed out, demands at individual substations may not coincide with system peak demand. Nevertheless, this equipment which is used by multiple rate classes clearly is driven by their collective peak demands rather than the demands of any individual class. Id., p. 35. Thus, the CP clearly provides a better fit for these costs.

The IIEC presents a set of arguments against the PO's position as well. The IIEC begins by stating:

> It is true that, generally speaking, much of the electrical system is built to serve customers from numerous classes, not single classes. However, this is not a determinative factor in the context of a cost of service study that is designed to establish the cost of serving various customer classes. Such a study is designed to determine each class' cost responsibility.

IIEC BOE, p. 14.

IIEC's argument is contradictory. If the distribution system is built to serve "customers from numerous classes" then it must be sized to meet the collective demands of numerous classes, rather than the demands of any individual class. It is difficult to conceive why the IIEC considers this as justification to favor individual class demands over coincident peak demands to allocate primary lines and substations.

The IIEC then seeks to play devil's advocate on the issue, arguing that "if the irrelevant fact that utility systems are built to serve customers in numerous classes actually suggests that the utility system is sized to meet system peak demands, then the entire system should be allocated on the basis of coincident peak demands. However, even the City and the Staff recognize that portions of the ComEd system are appropriately allocated on the basis of noncoincident peak demands." IIEC BOE, p. 15.

This is a curious argument. The IIEC claims to be concerned about cost but considers the fact that utility systems "are built to serve customers in numerous classes" irrelevant to the subject. Staff disagrees. This is a relevant matter. A system that serves multiple classes has a quite different (and lower) cost structure than individual systems constructed to serve each individual class. With respect to when noncoincident or coincident demands should be used for a cost, the primary consideration should be whether that cost is driven by the separate demands of individual rate classes or the collective demands of multiple rate classes. The undisputed evidence is that collective class demands drive primary lines and substations, and so a CP allocator should be used for these costs.

The IIEC goes on to complain that adoption of the CP allocator would decrease the allocation of primary lines and substations to lighting by 97.5%. IIEC BOE, p. 16. This is the kind of results-driven argument that should have no place in a study designed to identify cost-responsibility. It is also difficult to conceive that the IIEC would present a similar argument if a revised allocator reduced its cost contribution by a similar amount.

Thus, these arguments against the adoption of the CP allocator for primary lines and substations are clearly misplaced and the PO's recommendation on this issue is supported by the evidence and should be reaffirmed by the Commission.

B. The Workshop Process

The objection raised by the Commercial Group to the PO's recommendation that a workshop process be convened to further address outstanding cost issues presents problems and should be rejected.

The Commercial Group complains about the length of the ratemaking process that with the addition of the workshops "will likely take <u>at least three years</u>". The Commercial Group goes on to complain that "[s]uch a lengthy and costly process only favors those parties that are well-funded and harms those parties with limited litigation budgets." Commercial Group BOE, pp. 4-5. The Commercial Group further argues that instead of focusing on continued workshops, the PO should have addressed the rate inequities under which "<u>customers in the Medium Load, Large Load, and Very Large Load customer classes continue to subsidize heavily other customer classes</u>." Id., p. 5.

The Commercial Group certainly has a legitimate concern. The Commission asked the Company to provide an updated ECOSS to address cost allocation issues and the resulting study indicates that ratepayers represented by the Commercial Group are paying more than their fair share of costs. The Commercial Group also has good reason for concern about the lengthy regulatory process to resolve cost inequities. That is a problem that is not just confined to this case but impacts other proceedings as well.

Nevertheless, despite the inequities and the considerable length of time that has passed, it would be a mistake to go forward in redesigning rates based on the current study . The evidence in this case indicates that the Company's study has shortcomings with numerous assumptions that may or may not accurately reflect how ratepayers contribute to system costs. To move forward under these circumstances would generate legitimate complaints by those parties adversely affected that the rate redesign does not accurately reflect their contribution to system costs. It would be better to first address the shortcomings in the current study and then make requisite changes to rates.

With regard to the time and expense necessary to participate in workshops, Staff will seek to accommodate parties with smaller budgets by making it possible to actively participate in the workshop process by phone.

II. CONCLUSION

Staff respectfully requests that the Illinois Commerce Commission approve Staff's recommendations in this docket.

Respectfully submitted,

JOHN C. FEELEY
CARMEN L. FOSCO
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, IL 60601
Phone: (312) 793-2877
Fax: (312) 793-1556
jfeeley@icc.illinois.gov
cfosco@icc.illinois.gov

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